

### REMARKS

This Amendment is being filed in response to a First Office Action mailed November 29, 2004.

Claims 1-23 are pending in the application. Claims 1-20 and 23 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Haller et al. (U.S. Pat. No. 6,804,558) ("Haller"). Claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Haller in view of Fan et al. (U.S. Patent No. 5,815,126) ("Fan"). Claims 21 and 22 stand objected to. Claims 1, 4, 12, 18, 19, and 23 are being amended. No new matter is being introduced.

Applicant is amending claim 1 to remove the limitation of "a body" for more clearly defining the claimed invention. Dependent claims 4 and 12 are being amended accordingly. Independent claims 18, 19, and 23 are being amended in a similar manner.

Applicant is also amending claim 1 to recite, "[a]n apparatus for aggregating device communications ... comprising ... remote access port ... configured to establish bi-directional, wireless, data communications in a dedicated manner with a service provider." Support for this amendment can be found in Figs. 1 and 9 and the specification as originally filed in reference thereto.

Claims 1-23 were rejected in the Office Action at hand under 35 U.S.C. 102(e) as being anticipated by Haller et al. (U.S. Patent No. 6,804,558) ("Haller").

In contrast to Applicant's claim 1 as now amended, Haller discloses an apparatus (communication module 100, FIG. 8) for aggregating device communications that interfaces with a cellular phone (FIGS. 6A, 6C, 7, and 8) or personal digital assistant (PDA) (col. 21, line 29; col. 30, lines 3-8) or is integrated into a cellular phone or PDA (FIG. 6B). Haller uses the cellular phone to establish bi-directional, wireless, data communications with a service provider. Haller does *not*, however, disclose how data communications for implantable medical devices ("IMDs") are maintained such that the remote access port is configured *in a dedicated manner* in an event the wearer of the IMDs is currently using or chooses to use the cellular phone for normal cellular phone communications. Nor does Haller disclose how a service provider's equipment would be modified to support simultaneous data communications and normal cellular

phone communications. Without such disclosure, Applicant is left to conclude that there are no provisions for bi-directional, wireless, data communications *in a dedicated manner*. For example, in an event the user makes or receives a cellular phone call during transmission of IMD measurements, the remote access port is unable to communicate the data. In at least one embodiment of Haller (col. 30, lines 38-42), communications of the IMD measurements are remotely requested so that the user of the IMD is completely unaware of these communications. As soon as the user of the IMD uses his or her cell phone for its primary purpose (i.e., cell phone communications), the bi-directional, wireless, data communications of Haller can *no longer* be performed *in a dedicated manner* and Haller does not disclose a mechanism to override the normal functions of the cellular phone. Thus, Haller does not disclose every limitation of amended claim 1 ("data communications in a dedicated manner").

Accordingly, Applicant respectfully submits that because Haller does not disclose every limitation of amended claim 1 ("wireless, data communications in a dedicated manner"), therefore the rejection under 35 U.S.C. 102(e) should be withdrawn.

Because claims 2-17 depend from amended claim 1, these claims should be allowed for at least the same reasons.

Independent claims 18, 19, and 23 are being amended to include similar limitations as now amended claim 1 and should be allowed for at least the same reasons.

Claims 20-22 depend from claim 19 and should be allowed for at least the same reasons.

Claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Haller in view of Fan. Because claim 10 depends from now amended claim 1, the arguments above apply. Fan describes a wearable computer, but does not disclose or suggest "wireless, data communications in a dedicated manner."

Accordingly, Applicant respectfully submits that the rejection under 35 U.S.C. 103(a) should be withdrawn.

The Information Disclosure Statement submitted by Applicant on March 7, 2001, included two pages of Form PTO-1449 listing references. Both pages were returned with the present Office Action; however, the listing of references on one of the pages was not initialed.

Applicant : Rahul R. Vaid  
Serial No. : 09/746,484  
Filed : December 21, 2000  
Page : 10 of 10

Attorney's Docket No.: 14892-011001

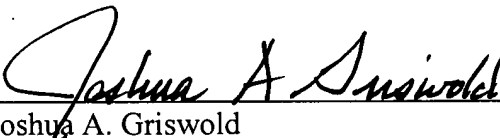
Applicant has included a copy of the Form PTO-1449, and requests the references thereon be initialed and the Form PTO-1449 be returned.

Enclosed is a \$225.00 check for the Petition for Extension of Time fee. Please apply any deficiencies or any other required fees or any credits to deposit account 06-1050, referencing the attorney docket number shown above.

Respectfully submitted,

Date: \_\_\_\_\_

4/14/05



Joshua A. Griswold  
Reg. No. 46,310

Fish & Richardson P.C.  
5000 Bank One Center  
1717 Main Street  
Dallas, Texas 75201  
Telephone: (214) 292-4034  
Facsimile: (214) 747-2091